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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/555,640	08/10/2000	QUANG TRI NGUYEN	045636-5033	1376

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EXAMINER

PARKIN, JEFFREY S

ART UNIT	PAPER NUMBER
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1648

DATE MAILED: 12/02/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/555,640

Applicant(s)

NGUYEN ET AL.

Examiner

Jeffrey S. Parkin, Ph.D.

Art Unit

1648

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 01 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 25 August 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-14, 16-21 and 24-38 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☐ Claim(s) _____ is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☒ Claim(s) 1-14, 16-21, and 24-38 are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

Unity of Invention

Status of the Claims

Applicants filed a petition under 37 C.F.R. § 1.144 on 02 May, 2003, requesting review of the restriction requirement mailed 01 February, 2003. The petition was granted and the office actions mailed 12 June, 2002, and 25 February, 2003, were vacated. Claims 1-14, 16-21, and 24-38 are pending in the instant application.

35 U.S.C. § 121

As previously set forth, this application was filed under 35 U.S.C. § 371 and is subject to unity of invention practice pursuant to 35 U.S.C. § 121 and 372. This application contains the following inventions or groups of inventions which are not so linked as to form a single inventive concept under PCT Rule 13.1. In accordance with 37 C.F.R. § 1.499, applicants are required, in response to this action, to elect a single invention to which the claims must be restricted.

- a. Group I, claims 1-10, drawn to sundry **erythroviral nucleic acids, probes, primers, and complementary sequences thereof**.
- b. Group II, claims 11-14, 16, 24-27, 37, and 38, drawn to various diagnostic, screening, and typing methods employing sundry **nucleic acids, probes, primers, and complementary sequences thereof**.
- c. Group III, claims 17-20, 28, and 29, drawn to sundry **proteins or polypeptide fragments thereof** and immunogenic compositions containing said proteins or fragments.
- d. Group IV, claims 21, 30, and 31, drawn to **antibodies** directed against sundry erythroviral proteins, polypeptides, or fragments thereof.
- e. Group V, claims 32 and 33, drawn to **in vitro screening methods** employing sundry erythroviral **proteins, polypeptides, or fragments thereof**.

- f. Group VI, claims 34 and 35, drawn to **in vitro screening methodologies** employing sundry erythroviral-specific antibodies.
- gg. Group VII, claim 36, drawn to a **diagnostic kit** comprising sundry **nucleic acids, probes, primers, and complementary sequences** thereof.
- h. Group VIII, claim 36, drawn to a **diagnostic kit** comprising sundry **proteins or polypeptide fragments** thereof.
- i. Group IX, claim 36, drawn to a **diagnostic kit** comprising **antibodies** directed against sundry erythroviral proteins, polypeptides, or fragments thereof.

Applicants are reminded that pursuant to 37 C.F.R. § 1.141, 1.475, and 1.499, when multiple products, processes of manufacture, or uses are claimed in a single national stage application, the first invention of the category first mentioned in the claims of the application and the first recited invention of each of the other categories related thereto, will be considered as the main invention in the claims (refer to PCT Article 17(3)(a) and § 1.476(c)). The novelty of the instant invention appears to be directed towards sundry **erythroviral nucleic acids, probes, primers, and complementary sequences** thereof. Should applicants elect to prosecute this invention, a single method of use (Group II) should also be elected for examination. However, the remaining groups do not share a special technical feature with Group I for the following reasons: Groups III-VIII are directed toward structurally unrelated products (e.g., proteins and antibodies), methods employing these unrelated products, and various kits comprising multiple components. Accordingly, a special technical feature is NOT present.

Applicants are advised that the response to this requirement to be complete must include an election of the invention to be examined even though the requirement be traversed. Applicant is reminded that upon the cancellation of claims to a non-elected

invention, the inventorship must be amended in compliance with 37 C.F.R. § 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a diligently-filed petition under 37 C.F.R. § 1.48(b) and by the fee required under 37 C.F.R. § 1.17(h).

Correspondence

Any inquiry concerning this communication should be directed to Jeffrey S. Parkin, Ph.D., whose telephone number is (571) 272-0908. The examiner can normally be reached Monday through Thursday from 10:30 AM to 9:00 PM. A message may be left on the examiner's voice mail service. If attempts to reach the examiner are unsuccessful, the examiner's supervisor, James C. Housel, can be reached at (571) 272-0902. Direct general status inquiries to the Technology Center 1600 receptionist at (571) 272-1600. Formal communications may be submitted through the official facsimile number which is (703) 872-9306. Hand-carried formal communications should be directed toward the customer window located in Crystal Plaza Two, 2011 South Clark Place, Arlington, VA. Applicants are directed toward the O.G. Notice for further guidance. 1280 O.G. 681. Informal communications may be submitted to the Examiner's RightFAX account at (571) 273-0908.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Respectfully,



Jeffrey S. Parkin, Ph.D.
Primary Examiner
Art Unit 1648

27 November, 2004